

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

UNITED STATES OF AMERICA

v.

JAMES FRANKLIN BRACEY

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Case No. 2:10-CR-13-1-JRG-RSP

**REPORT AND RECOMMENDATION OF
THE UNITED STATES MAGISTRATE JUDGE**

On May 20, 2015, the undersigned held a final hearing on the Government's petition (#41) to revoke supervised release. The Government was represented by Assistant United States Attorney Mary Ann Cozby. The Defendant, James Franklin Bracey, was represented by Ken Hawk.

James Franklin Bracey was sentenced on May 31, 2011, before The Honorable U.S. District Judge T. John Ward of the Eastern District of Texas – Marshall Division, after pleading guilty to the offense of Felon in Possession of a Firearm, a Class C felony. This offense carried a statutory maximum imprisonment term of not more than 10 years. The guideline imprisonment range, based on a total offense level of 15 and a criminal history category of IV, was 30 to 37 months. James Franklin Bracey was subsequently sentenced to 17 months imprisonment followed by a 3 year term of supervised release subject to the standard conditions of release, plus special conditions to include financial disclosure and drug aftercare. On August 24, 2012, James Franklin Bracey completed his period of imprisonment and began service of the supervision term.

On December 11, 2013, the Court modified Mr. Bracey's conditions to include a requirement that he surrender his driver's license and not operate a vehicle on any public

roadway until further order of the Court.

On April 10, 2015, this petition to revoke was filed. In its petition, the Government alleges the Defendant violated the following conditions:

1) Mandatory: The Defendant shall not commit another federal, state, or local crime. Specifically, the Government alleges as follows: On April 12, 2013, Mr. Bracey was arrested by the Texas Department of Public Safety (DPS), for Driving While Intoxicated. On or about March 23, 2015, Mr. Bracey was convicted of Driving While intoxicated and is currently serving 90 days in the Smith County Jail.

2) Mandatory: The Defendant shall not commit another federal, state, or local crime. Specifically, the Government alleges as follows: On November 8, 2013, Mr. Bracey was arrested by the Tyler Police Department for Driving While Intoxicated. On or about April 1, 2015, Mr. Bracey was convicted of Driving While Intoxicated and is currently serving 80 days in Smith County Jail.

The Court scheduled a revocation hearing for May 20, 2015. At the hearing on the Government's petition, and after consenting to the undersigned taking the plea, the Defendant pled true to the allegations as set forth above. Based on the Defendant's plea of true to the allegations, and with no objection by the Defendant or the Government, the undersigned found that the Defendant did violate conditions of his supervised release, as alleged in the U.S. Probation Office's petition.

The undersigned thereafter recommended that the Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for four months, with no supervised release to follow such term of imprisonment. The Court recommends service of sentence at FCI Texarkana.

Based on the foregoing, it is

RECOMMENDED that the Defendant's plea of true to the allegations, as set forth in the Government's petition, be **ACCEPTED**. Based upon the Defendant's plea of true to the allegations, it is further recommended that the Court find that the Defendant violated the conditions of his supervised release. It is further

RECOMMENDED that the Defendant's supervised release be **REVOKED**. It is further **RECOMMENDED** that the Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of four months, with no supervised release to follow such term of imprisonment. The Court recommends service of sentence at FCI Texarkana.

At the close of the May 20, 2015 revocation hearing, Defendant, defense counsel, and counsel for the Government each signed a standard form waiving their right to object to the proposed findings and recommendations contained in this report, consenting to revocation of supervised release as recommended herein and to the imposition of the above sentence. Defendant also waived his right to be present and speak before the District Judge imposes the recommended sentence. Therefore, the Court may act on the findings and recommendation immediately.

SIGNED this 21st day of May, 2015.



ROY S. PAYNE
UNITED STATES MAGISTRATE JUDGE